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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,547	02/27/2002	David F. Bantz	YOR920010667US1	9848
54105	7590	02/25/2008		
DUKE W. YEE YEE & ASSOCIATES, P.C. P.O. BOX 802333 DALLAS, TX 75380			EXAMINER ZHEN, LI B	
			ART UNIT 2194	PAPER NUMBER
			MAIL DATE 02/25/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/085,547	<b>Applicant(s)</b> BANTZ ET AL.	
	<b>Examiner</b> Li B. Zhen	<b>Art Unit</b> 2194	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4-19,21-34,36-47,49 and 50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-19,21-34,36-47,49 and 50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Claims 1, 4 – 19, 21 – 34, 36 – 47, 49 and 50 are pending in the application.

### ***Response to Arguments***

2. Applicant's arguments filed 12/06/2007 have been fully considered but they are not persuasive. In response to the Non-Final Office action dated 09/06/2007, applicant argues:

(1) House cannot teach identifying a plurality of software components that currently exist and that will fulfill the software requirements because House does not teach or suggest receiving software requirements that specify needed software capabilities, as discussed above. House only teaches receiving a user's selection of specific components and specific configuration options, or specified system features. [pp. 13 and 14]

(2) House fails to teach a provisioning server addressing constraints and affinities between software components. [p. 14]

(3) House does not teach or suggest a provisioning server identifying a respective plurality of configuration options that reflect current best practices with regard to said plurality of software components. House does not even mention a provisioning server. Nor does House address in the cited portion, or elsewhere, a respective plurality of configuration options that reflect current best practices. [p. 16]

(4) Kroening also fails to teach generating a disk image using components and configuration options identified based on the software requirements. [p. 17]

(5) House teaches away from the presently claimed invention in amended claim 1 because House directs one to create a system that allows individual users to select specific components and configuration options, rather than receiving software requirements from users that specify needed capabilities and identifying, by a provisioning server, the appropriate software components and configuration option based on those requirements, as in the presently claimed invention in amended claim 1. [p. 19]

(6) House does not teach or suggest “rules specifying installation options regarding a particular software component.” [p. 20]

In response to argument (1), examiner respectfully disagrees and notes that House teaches receiving software requirements that specify capabilities of software needed by a plurality of users [step 701 a user may be provided the opportunity to enter descriptive information about the specific hardware that the desired software driver/s will be configured to operate with...step 702, quantitative information about the command set may be entered in blanks...step 704, a user may specify a desired driver package type or driver performance level; col. 29, lines 12 – 43]. Steps 701 – 704 describe the users entering software requirements that specify capabilities [information about the specific hardware that the software driver will be configured to operation with, information about the command set and the driver performance level] of the software driver and the users do not select the specific software driver. In addition, House teaches identifying a plurality of software components that currently exist and that will

fulfill the software requirements [As part of this analysis, the server may select individual components to meet the user-defined requirements or features of the system; col. 10, lines 40 – 65].

As to argument (2), examiner disagrees and submits that House teaches a provisioning server addressing constraints and affinities between software components [system software requirements that includes software compatibility with other types of software; col. 19, lines 53 – 67]. When the server analyzes the software requirements, the server would also consider the software compatibility [constraints and affinities] with other types of software.

As to argument (3), a provisioning server is interpreted as a server that builds software configuration based on user requirement. Although House does not specifically disclose a “provisioning server”, House discloses a server that builds software configuration based on user requirements [e.g. col. 10, lines 40 – 65]. In addition, House teaches adding component selection information to the database in a “feedback” manner, so that in the future components may be automatically selected by the server using the database information in combination with a user-definition of similar requirements or features. The component selection information in House corresponds to the current best practices with regard to the plurality of software components.

As to argument (4), examiner disagrees and submits that Kroening teaches generating a disk image using components and configuration options identified based on the software requirements [image builder 20 builds the image 600 in software according to a desired software configuration; col. 11, lines 50 – 59]. The desired

software configuration identifies the software components and configuration options and the image builder builds the image in software based on the desired software configuration.

As to argument (5), examiner disagrees and notes that House does not teach away from the claimed invention because House discloses a system that receives software requirements from users that specify needed capabilities [step 701 a user may be provided the opportunity to enter descriptive information about the specific hardware that the desired software driver/s will be configured to operate with...step 702, quantitative information about the command set may be entered in blanks...step 704, a user may specify a desired driver package type or driver performance level; col. 29, lines 12 – 43] and identifying, by a provisioning server, the appropriate software components and configuration option based on those requirements [As part of this analysis, the server may select individual components to meet the user-defined requirements or features of the system; col. 10, lines 40 – 65].

As to argument (6), examiner disagrees and submits that House teaches system software requirements that include software compatibility with other types of software. The software requirements specify installation options regarding a particular software component and determine other types of software that the particular software component is compatible with. Therefore, House discloses rules specifying installation options regarding a particular software component.

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3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. **Claims 1, 4 – 19, 21 – 34, 36 – 47, 49 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,785,805 to House et al. [hereinafter House] in view of U.S. Patent No. 6,775,829 to Kroening, both references previously cited.**

6. As to claim 1, House teaches the invention substantially as claimed including a method for loading software onto a computer [col. 20, lines 25 – 50], the method comprising the steps:

receiving software requirements [configuration options; col. 14, lines 16 – 37 and col. 22, lines 16 – 50] for a given computer system [build-to-order system; col. 10, lines

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40 – 65] from a plurality of users [an organization such as a corporation may pre-define different customized or tailored component menus that are password dependent, so that access to different component options, price limits, etc. may be provided to different employees, consultants or groups of same by entering different passwords; col. 14, lines 36 – 60 and col. 12, lines 29 – 46], wherein the software requirements specify capabilities of software needed [step 701 a user may be provided the opportunity to enter descriptive information about the specific hardware that the desired software driver/s will be configured to operate with...step 702, quantitative information about the command set may be entered in blanks...step 704, a user may specify a desired driver package type or driver performance level; col. 29, lines 12 – 43] by the plurality of users [Key users may be given opportunity to select or otherwise enter customized information according to the privileges assigned to a particular Key user; col. 29, lines 12 – 43] rather than identifying specific software components that will be required [user may specify system requirements or features, rather than the identity of individual components themselves; col. 9, lines 8 – 13];

identifying, by a provisioning server [As part of this analysis, the server may select individual components to meet the user-defined requirements or features of the system; col. 10, lines 40 – 65], a plurality of software components that currently exist and [pre-existing software components; col. 21, lines 36 – 56] that will fulfill the software requirements while addressing constraints and affinities between said plurality of software components [pre-existing and/or now-existing custom-engineered hardware, software, and documentation components may be assembled by manufacturing

personnel and/or automated equipment to create an integrated TMA system that fulfills the requirements; col. 16, lines 13 – 28 and col. 19, lines 53 – 67]; and

identifying, by the provisioning server, a respective plurality of configuration options [configuration options; col. 12, line 58 – col. 13, line 22] that reflect current best practices with regard to said plurality of software components [predefined sub-configuration of other hardware components, pre-set combinations or sub-combinations of two or more hardware/software component types for inclusion in the integrated system optionally with other individual hardware/software components, operating features or characteristics of the integrated system, and/or hardware/software features and/or components that require custom engineering; col. col. 12, line 58 – col. 13, line 22], wherein the provisioning server applies rules to the software requirements to identify the plurality of software components that comply with the software requirements [automatic selection may be based, for example, on empirical information stored in a database that contains a correlation of appropriate component selections based on particular user-defined requirements or features; col. 10, lines 40 – 65]. House does not teach generating, by a disk image manufacturing server, a disk image using the plurality of software component and the plurality of configuration options, wherein the disk image contains said plurality software components configured according to said respective plurality of configuration options.

However, Kroening teaches deployment of data processing systems with a specific set of software under the centralized control of a graphical user interface [bill of materials includes a customer's selection of a desired software configuration for a

particular computing system; col. 5, lines 15 – 31 and Figs. 3A-D] and generating a disk image containing said plurality software components configured according to said respective plurality of configuration options [image builder 20 builds the image 600 in software according to a desired software configuration; col. 11, lines 50 – 59].

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the invention of House to incorporate the features of generating a disk image containing said plurality software components configured according to said respective plurality of configuration options because this allows a hard drive to be configured with an image of the desired software configuration before installation into a computer system [col. 8, lines 37 – 55 of Kroening] and provides levels of granularity wherein incremental changes can be made to a system without having to perform major work by redefining the baseline [col. 12, lines 33 – 45 of Kroening]. Configuring a hard drive with the image allows the desired software configuration to be loaded into the computer system without requiring the user to install and configure each software component separately.

7. As to claim 4, House teaches wherein the rules include rules mapping a software requirement into a corresponding software component [col. 20, lines 50 – 65].

8. As to claim 5, House as modified teaches wherein the rules include rules specifying when particular versions of a particular software component are to be utilized [col. 7, lines 23 – 34 of Kroening].

9. As to claim 6, House teaches wherein the rules include rules specifying installation options regarding a particular software component [col. 19, lines 53 – 67].

10. As to claim 7, House as modified teaches wherein the rules include rules specifying how to test a particular software component [col. 12, lines 1 – 15 of Kroening].

11. As to claim 8, House teaches testing the disk image [testing 134; col. 15, line 65 – col. 16, line 14].

12. As to claim 9, House teaches wherein testing the disk image includes verifying that said plurality of software components complies with the software requirements [col. 17, lines 43 – 60].

13. As to claim 10, House teaches wherein testing the disk image includes verifying that said plurality of software components complies with at least one rule [col. 17, lines 43 – 60].

14. As to claim 11, House as modified teaches generating a difference image that represents differences between the disk image and another existing disk image, whereby the another existing disk image may be updated to match the disk image by

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applying the difference image to the another existing disk image [col. 12, lines 33 – 45 of Kroening].

15. As to claim 12, House teaches the software requirements are received through a network that includes the Internet [col. 22, line 62 – col. 23, line 9].

16. As to claim 13, House teaches wherein the software requirements can be received in terms of customer needs rather than specific software components [col. 9, lines 13 – 37].

17. As to claim 14, House teaches the requirements are represented in a structured format [col. 24, lines 11 – 22].

18. As to claims 15, House teaches the structured format is Extensible Markup Language (XML) [col. 24, lines 11 – 22].

19. As to claim 49, House as modified teaches storing said disk image on a computer-readable and distributing said computer-readable [col. 8, lines 37 – 55 of Kroening] media to a client [col. 8, lines 20 – 55 of House].

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20. As to claim 16, House as modified teaches a method for creating a customized disk image for loading software onto a computer, the method comprising the computer-implemented steps:

parsing a plurality of inputs regarding a desired computer system to extract specifications regarding software requirements [col. 30, line 51 – col. 31, line 9 and col. 14, lines 16 – 37 and col. 22, lines 16 – 50 of House];

evaluating a plurality of rules with respect to the plurality of inputs to derive a set of software components conforming to the specifications [col. 18, lines 25 – 44 and col. 29, lines 12 – 43 of House], said set of software components being chosen from existing software components [pre-existing software components; col. 21, lines 36 – 56 of House];

evaluating a second plurality of rules with respect to the plurality of inputs to derive a set of configuration options conforming to at least the specifications [col. 20, lines 50 – 65 and col. 10, lines 40 – 65 of House];

storing each software component from the set of software components on a storage device [col. 19, lines 35 – 54 of House];

configuring each software component stored on the storage device in accordance to the set of configuration options [col. 11, lines 50 – 59 of Kroening]; and

generating a disk image from contents of the storage device [col. 11, lines 50 – 5 of Kroening].

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21. As to claim 17, House as modified teaches the inputs are requests from hypertext browsers [col. 18, line 57 – col. 19, line 12].

22. As to claim 18, House teaches the inputs are XML documents [col. 24, lines 11 – 22].

23. As to claim 19, this is a product claim that corresponds to method claim 1 and is rejected for the same reasons set forth in the rejection of claim 1.

24. As to claim 21, House teaches wherein the rules are stored in a database [col. 11, lines 40 – 55].

25. As to claims 22-32, the rejection of claim 21 are incorporated and are rejected for the same reason set forth in the rejection of claims 4-14 respectfully.

26. As to claim 33, this is rejected for the same reasons set forth in the rejection of claim 15.

27. As to claim 34, this is a data processing system claim that correspond to method claim 1 and is rejected for the same reasons set forth in the rejection of claim 1.

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28. As to claim 36, House teaches wherein the rules are stored in a database [col. 11, lines 40 – 55].

29. As to claims 37-47, the rejection of claim 36 are incorporated and are rejected for the same reasons set forth in the rejections of claims 4-14 respectfully.

30. As to claim 50, House as modified teaches instructions for storing said disk image on a computer-readable media [col. 8, lines 37 – 55 of Kroening], wherein said computer-readable media can be distributed to a client [col. 8, lines 20 – 55 of House].

### ***Conclusion***

31. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### **CONTACT INFORMATION**

32. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Li B. Zhen whose telephone number is (571) 272-3768. The examiner can normally be reached on Mon - Fri, 8:30am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Thomson can be reached on 571-272-3718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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